

REMARKS

Applicant replies to the Office Action dated September 17, 2009 within 3 months. Claims 1-3, 6-22, 25-28, 30-36 and 39 are pending in the application and the Examiner rejects claims 1-3, 6-22, 25-28, 30-36 and 39. Support for the amendments may be found in the originally-filed specification, claims, and figures. Applicant respectfully requests reconsideration of this application.

Applicant thanks the Examiner for the interview on November 10, 2009 and the discussion of the Kraml reference with respect to determination of which software version is determined by an error detection and the discussion of potential claim amendments.

§103(a)

The Examiner rejects claims 1-3, 6-16, 19-22, 26 and 39 under 35 U.S.C. 103(a) as being unpatentable over Kraml et al., U.S. Patent No. 6,141,683 (“Kraml”), in view of Aghera et al., U.S. Publication No. 2004/0098715 A1 (“Aghera”). Additionally, the Examiner rejects claims 17, 18, 27, 28 and 31-36 under 35 U.S.C. 103(a) as being unpatentable over Kraml, in view of Aghera, and further in view of Aija et al., U.S. Patent No. 6,928,579 (“Aija”). The Examiner asserts that Kraml teaches the invention as claimed, where Aghera teaches updating software in a software defined radio device, and Aija teaches automatically reverting from a version of the software to a different software version without an instruction from a software server (Office Action p. 12-13).

Furthermore, the Examiner rejects claim 25 under 35 U.S.C. 103(a) as being unpatentable over Kraml, in view of Aghera, further in view of Simionescu et al., U.S. Publication No. 2003/0084337 A1 (“Simionescu”). Moreover, the Examiner rejects claim 30 under 35 U.S.C. 103(a) as being unpatentable over Kraml, in view of Aghera, further in view of Simionescu, and further in view of Aija. Applicant respectfully disagrees with these rejections, but Applicant amends certain claims (without prejudice or disclaimer) in order to further clarify the patentable aspects of the claims and to expedite prosecution.

The Examiner contends that Aghera teaches updating software in a software defined radio device and teaches transferring update information via radio frequency communication. Furthermore, the Examiner contends that Kraml teaches the remaining elements of claim 1. Specifically, the Examiner asserts that Kraml discloses “automatically switching from said

selected software application to a different version of said selected software application, wherein said different version is selected based on a detected error.” The Examiner asserts that Kraml discloses that a remote computer receives a message indicating that the software has crashed and automatically rolls back to a prior version. (see Office Action, p. 3).

The method described in Kraml includes a control center receiving indication that the software has crashed and then determining whether the software should be rebooted or whether a different version of the software should be initiated upon a reboot. (col. 7, ln. 26-42). However, Kraml does not describe the decision making process of determining the appropriate response to receiving the error indication. Kraml does not disclose receiving an error indication and “selecting said different software version based on said error indication, wherein said different software version is determined by a particular error in said error indication” as recited in claim 16. In other words, in the present claims, different software versions may be determined by “a particular detected error”, and the software version response is determined in part by the particular error.


Specifically, the cited references do not disclose or contemplate “[a] method comprising... *automatically switching from said selected software application to a different version of said selected software application, wherein said different version is determined by a particular detected error*” as recited in amended, independent claim 1 (emphasis added). Likewise, the limitations recited in independent claims 16, 27, and 39 are substantially similar to the limitations of claim 1. For at least the reasons cited with respect to claim 1, Applicant respectfully requests allowance of independent claims 1, 16, 27, and 39.

Furthermore, dependent claims 3, 6-15, 17, 19-22, 25-26, 28 and 30-36 variously depend from independent claims 1, 16, and 27, so Applicant asserts that dependent claims 3, 6-15, 17, 19-22, 25-26, 28 and 30-36 are allowable over the cited references for the reasons set forth above for differentiating independent claims 1, 16, and 27, in addition to their own unique features.

In view of the above remarks, Applicant respectfully submits that all pending claims properly set forth that which Applicant regards as their invention and are allowable over the cited references. Accordingly, Applicant respectfully requests allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject application. The Commissioner is authorized to charge any fees due to Deposit Account No. 19-2814.

Respectfully submitted,

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David G. Barker
Reg. No. 58,581

SNELL & WILMER L.L.P.
400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6376
Fax: 602-382-6070
Email: dbarker@swlaw.com